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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

**PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. Maureen F. Gorsen,
Director, California Department of Toxic
Substances Control,**

Plaintiff,

v.

**KYOCERA AMERICAN, INC., and DOES
1-10,**

Defendants.

37-2007-00074954-CU-MC-CTL

~~Proposed~~ FINAL CONSENT
JUDGMENT AND INJUNCTION

Plaintiff, the People of the State of California, ex rel. Maureen F. Gorsen, Director of
the California Department of Toxic Substances Control ("Department"), and Defendant Kyocera
America, Inc. ("Kyocera"), having consented to the entry of this Final Consent Judgment and
Injunction Pursuant to Stipulation ("Judgment") prior to the taking of any proof and without trial
or adjudication of any fact or law herein; and

FILED
Clerk of the Superior Court
12 2008
By: LEERYAN, Deputy

1 The Court having considered the pleadings, which include, without limitation, the
2 Complaint, the Answer, the parties' Stipulation for Entry of Final Consent Judgment, and the
3 proposed Final Consent Judgment and Injunction Pursuant to Stipulation;

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:**

5 **JURISDICTION AND VENUE**

6 1. Jurisdiction exists over this matter pursuant to Health and Safety Code sections
7 25181, 25189 and 25189.2. Venue is proper pursuant to Health and Safety Code section 25183.

8 **APPLICABILITY**

9 2. The provisions of this Judgment shall apply to and be binding upon Kyocera
10 and any successor entity, and upon the Department and any successor agency of the Department
11 that may have responsibility for and jurisdiction over the subject matter of this Judgment.

12 2.1. The provisions of this Judgment shall apply to Kyocera's facility located at
13 8611 Balboa Avenue, San Diego, California ("Facility" or "Site").

14 **INJUNCTION AND SCHEDULE FOR COMPLIANCE**

15 3. Application for Hazardous Waste Treatment Permit

16 3.1. Within ninety (90) calendar days from the entry of this Judgment, Kyocera shall
17 submit to the Department a complete application for a Standardized Hazardous Waste Treatment
18 Permit ("Permit Application") for the treatment activities and materials identified in Attachment
19 "1" to this Judgment. The Department agrees that within thirty (30) days of receipt of the Permit
20 Application, the Department's permitting staff, in consultation with others, as necessary, will
21 review the Permit Application and any supporting documentation to determine whether the
22 Permit Application is considered complete by the Department. The Permit Application shall be
23 considered "complete" when the Department receives an application form and any supplemental
24 information and documentation which are required and completed to the Department's
25 satisfaction as required by applicable law, and the Department notifies Kyocera in writing that the
26 Permit Application is complete. The completeness of the Permit Application shall be judged
27 independently of the status of any other permit application or permit for the same Facility or
28 activity. In submitting its Permit Application to the Department, Kyocera agrees to comply with

1 the permit application requirements as set forth in the California Code of Regulations, title 22,
2 division 4.5, chapter 20, section 66270.10 et seq.

3 3.2. In 1992, the Wright Polanco Lempert Hazardous Waste Treatment Permit
4 Reform Act (Stats. 1992, c. 1345 (A.B. 1772)) established a five tiered program for authorizing
5 hazardous waste treatment in California. The tiers include "Full Permit," "Standardized Permit,"
6 "Permit by Rule (PBR)," "Conditionally Authorized," and "Conditionally Exempt." The five tiers
7 are arranged in descending order of regulatory oversight.

8 3.3. The Department acknowledges that Kyocera is submitting the Permit
9 Application referenced in paragraph 3.1 above, at the Department's request as a means of
10 presenting information to the Department for its determination regarding the level of
11 authorization, if any, that is required by law to conduct the activities using the materials identified
12 in Attachment 1. The Department and Kyocera agree to work cooperatively to discuss and
13 evaluate the Permit Application and supporting information. The Department and Kyocera
14 anticipate that this process may take several months to complete, but an agreement may be
15 reached regarding the authorization or exclusion of individual activities that can be implemented
16 immediately. If authorization is required, Kyocera seeks to obtain authorization pursuant to the
17 lowest regulatory oversight tier that is available under the Department's five-tiered program
18 referenced in paragraph 3.2 above, or other applicable laws. The Department also acknowledges
19 that Kyocera is providing the information required by the Department in the form of the Permit
20 Application in order to facilitate the Department's determination regarding the level of
21 authorization that is required by law.

22 3.4. If, after issuance of a final permit decision by the Department, a Standardized
23 Hazardous Waste Treatment Permit or other form of authorization is issued by the Department to
24 Kyocera for any of the activities and materials that are identified in Attachment 1, Kyocera agrees
25 to immediately comply with all permit or other authorization requirements as required by law.
26 Kyocera does not waive any right provided by law to appeal a final permit decision by the
27 Department and nothing in this Judgment shall restrict Kyocera from availing itself of established
28

1 permit modification procedures or final permit decision appeal procedures that are contained in
2 California Code of Regulations, title 22, division 4.5, chapter 21.

3 3.5. At the same time it submits the Permit Application, Kyocera shall pay the
4 Department a fee as the permit application fee associated with the Permit Application review,
5 processing, and determination in accordance with the Department's Fee Summary for calendar
6 year 2009. If, after review of Kyocera's Permit Application the Department determines that
7 authorization is required under a higher permit tier (i.e., a full RCRA permit), Kyocera agrees to
8 pay the Department the net difference between the Standardized Permit Application fee and the
9 higher permit application fee as determined by the Department's Fee Summary for calendar year
10 2009, or whichever other year applies.

11 4. Waste Analysis Plan

12 Within sixty (60) calendar days from entry of this Judgment, Kyocera shall develop,
13 implement, and comply with a written waste analysis plan meeting the requirements of California
14 Code of Regulations, section 66265.13. Kyocera shall maintain a copy of the waste analysis plan
15 required herein at the Facility and shall make it available upon request by the Department and the
16 County of San Diego Department of Environmental Health, Hazardous Materials Division
17 (hereinafter referred to as the "San Diego County Certified Unified Program Agency" or "San
18 Diego County CUPA"). After sixty (60) calendar days from entry of this Judgment and within
19 ten (10) calendar days of the Department's subsequent written request, Kyocera shall provide the
20 Department the written waste analysis plan required by this paragraph. Within sixty (60) days
21 after receipt of Kyocera's written waste analysis plan, the Department shall review that plan to
22 determine whether it meets applicable statutory and regulatory requirements, and notify Kyocera
23 in writing of the Department's determination.

24 5. Hazardous Waste Determination

25 Within sixty (60) calendar days from entry of this Judgment, Kyocera shall identify
26 all wastes generated, stored, treated, and/or otherwise managed at the Facility as defined in Health
27 and Safety Code section 25124 and California Code of Regulations, title 22, section 66261.2, and
28 shall determine if the wastes are hazardous pursuant to California Code of Regulations, title 22,

1 section 66262.11. Kyocera shall identify in writing and continually keep current a list of all
2 hazardous wastes generated, stored, treated, and/or otherwise managed at the Facility. Kyocera
3 shall maintain a copy of the hazardous waste list required herein at the Facility and shall make it
4 available upon request by the Department and the San Diego County CUPA.

5 6. Labeling of Hazardous Waste Containers and Portable Tanks

6 Effective on the date of entry of this Judgment, Kyocera shall identify and label all
7 containers and portable tanks used to store, treat, or otherwise manage hazardous waste with the
8 words "Hazardous Waste," the composition and physical state of the waste, the hazardous
9 properties, the initial date of accumulation of hazardous waste, and the name and address of the
10 generator in compliance with California Code of Regulations, title 22, section 66262.34(f).

11 7. Identification of Satellite Accumulation Area(s)

12 Within sixty (60) calendar days from entry of this Judgment, Kyocera shall identify in
13 writing and continually keep current a list of all satellite accumulation areas used to store
14 hazardous wastes pursuant to California Code of Regulations, title 22, section 66262.34(e).
15 Kyocera shall maintain a copy of the list required herein at the Facility and shall make it available
16 upon request by the Department and the San Diego County CUPA.

17 8. Certified Tank Assessment

18 Within sixty (60) calendar days from entry of this Judgment, Kyocera shall have and
19 maintain a current and adequate tank assessment performed for each tank and tank system used at
20 the Facility to accumulate, store, transfer, treat, and/or otherwise manage hazardous waste. Each
21 tank assessment shall be conducted by an independent, qualified, professional engineer, registered
22 in California, in accordance with California Code of Regulations, title 22, sections 66265.191 and
23 66265.192. Kyocera shall maintain a copy of the current certified tank assessment required
24 herein at the Facility and shall make it available upon request by the Department and the San
25 Diego County CUPA. After sixty (60) calendar days from entry of this Judgment and within ten
26 (10) calendar days of the Department's subsequent written request, Kyocera shall provide the
27 Department the written certified tank assessment required by this paragraph. Within sixty (60)
28 days after receipt of Kyocera's written certified tank assessment, the Department shall review that

1 written tank assessment to determine whether it meets applicable statutory and regulatory
2 requirements, and notify Kyocera in writing of the Department's determination.

3 9. Secondary Containment

4 Within sixty (60) calendar days from entry of this Judgment, Kyocera shall provide
5 adequate secondary containment assessment for each tank and each tank system used at the
6 Facility to store, treat, and/or otherwise manage hazardous waste. Kyocera shall provide and
7 maintain adequate secondary containment for each tank and tank system as required by law. As
8 part of the tank integrity assessment required by paragraph 8 above, the secondary containment
9 assessment shall be certified by an independent, qualified, professional engineer registered in
10 California, in compliance with California Code of Regulations, title 22, section 66265.193. After
11 sixty (60) calendar days from entry of this Judgment and within ten (10) calendar days of the
12 Department's subsequent written request, Kyocera shall provide the Department the written
13 certified tank assessment required by this paragraph. Within sixty (60) days after receipt of
14 Kyocera's written certified tank assessment that addresses secondary containment, the
15 Department shall review that written tank assessment to determine whether it meets applicable
16 statutory and regulatory requirements, and notify Kyocera in writing of the Department's
17 determination.

18 10. Daily Tank Inspections

19 Effective on the date of entry of this Judgment, Kyocera shall prepare and implement
20 a written daily tank inspection plan in compliance with California Code of Regulations, title 22,
21 section 66265.195(a) and (c), and shall maintain an accurate log of the daily inspections
22 conducted, including corrective actions taken. Kyocera shall make the written daily inspection
23 plan and log of daily inspections available upon request by the Department and the San Diego
24 County CUPA. Within ten (10) calendar days of the Department's written request, Kyocera shall
25 provide the Department the written inspection plan and/or log of daily inspections required by
26 this paragraph. Within sixty (60) days after receipt of Kyocera's written inspection plan and/or
27 log of daily inspections, the Department shall review those documents to determine whether they
28

1 meet applicable statutory and regulatory requirements, and notify Kyocera in writing of the
2 Department's determination.

3 11. Weekly Inspection of Containers and Portable Tanks

4 Effective on the date of entry of this Judgment, Kyocera shall prepare and implement
5 a written weekly inspection program for inspecting all containers and portable tanks, and shall
6 maintain a log of all inspections conducted and corrections made, in compliance with California
7 Code of Regulations, title 22, section 66265.174. Kyocera shall make the log of inspections
8 available upon request by the Department and the San Diego County CUPA. Within ten (10)
9 calendar days of the Department's written request, Kyocera shall provide the Department the
10 written inspection plan and/or log of daily inspections required by this paragraph. Within sixty
11 (60) days after receipt of Kyocera's written inspection plan and/or log of weekly inspections, the
12 Department shall review those documents to determine whether they meet applicable statutory
13 and regulatory requirements, and notify Kyocera in writing of the Department's determination.

14 12. Inspection of Emergency and Safety Equipment

15 Effective on the date of entry of this Judgment, Kyocera shall prepare and implement
16 a written inspection program for inspecting all monitoring equipment, safety and emergency
17 equipment, security devices, and operating and structural equipment (such as dikes and sump
18 pumps) that are important to preventing, detecting, or responding to environmental or human
19 health hazards, in compliance with California Code of Regulations, title 22, section 66265.15, and
20 shall maintain a log of all such inspections. Kyocera shall also test and maintain all Facility
21 communications or alarm systems, fire protection equipment, spill control equipment, and
22 decontamination equipment, where required, as necessary to assure its proper operation in time of
23 emergency in compliance with California Code of Regulations, title 22, section 66265.33.
24 Kyocera shall make the written inspection program and/or log of inspections available upon
25 request by the Department and the San Diego County CUPA. Within ten (10) calendar days of
26 the Department's written request, Kyocera shall provide the Department the written inspection
27 plan and/or log of daily inspections required by this paragraph. Within sixty (60) days after
28 receipt of Kyocera's written inspection plan and/or log of inspections, the Department shall

1 review those documents to determine whether they meet applicable statutory and regulatory
2 requirements, and notify Kyocera in writing of the Department's determination.

3 13. Interim Financial Assurance:

4 Within sixty (60) days from the entry of this Judgment, Kyocera shall provide interim
5 Financial Assurance to the Department for closure and post closure care costs associated with the
6 closure of the Facility. The interim Financial Assurance for closure costs shall be in the amount
7 of \$138,000.00 in a form acceptable to the Department, and shall meet the requirements of
8 California Code of Regulations, title 22, division 4.5, chapter 15, articles 7 and 8. If a closure
9 plan(s) and/or post closure care plan(s) is submitted to the Department pursuant to the Permit
10 Application process referenced in paragraph 3.1 above, the interim Financial Assurance shall be
11 adjusted to reflect the more detailed cost estimate(s) contained in said plan(s). The Financial
12 Assurance shall remain in effect until a replacement mechanism is approved by the Department
13 and implemented by Kyocera within the time as required by the Department.

14 14. Training

15 Within thirty (30) calendar days from entry of this Judgment, Kyocera shall develop,
16 implement, and comply with a written training plan for all workers, including contract employees
17 who are involved with the storing, handling, treating and removal of hazardous waste, meeting
18 the requirements of California Code of Regulations, title 22, section 66265.16. The training plan
19 shall be submitted to the Department and the San Diego County CUPA within sixty (60) days
20 from the entry of this Judgment. If Kyocera's employees require additional training to meet the
21 plan, this training shall be provided and completed within ninety (90) days from the entry of this
22 Judgment. Within sixty (60) days after receipt of Kyocera's written training plan, the Department
23 shall review the plan to determine whether it meets applicable statutory and regulatory
24 requirements, and notify Kyocera in writing of the Department's determination.

25 15. Operating Record

26 Upon entry of this Judgment, Kyocera shall comply with the requirements of
27 California Code of Regulations, title 22, division 4.5, chapter 15, article 5 (manifest system,
28 recordkeeping, and reporting), sections 66265.70 through 66265.78, and, if applicable under

1 Permit By Rule authorization, section 67450.3. Within sixty (60) days from entry of this
2 Judgment, Kyocera shall compile all existing records, as identified and required by the above
3 cited regulations, of previous activities that would have been required to be kept by Kyocera, and
4 incorporate those records into the current operating record, to the extent possible.

5 16. Environmental Audit

6 Within twelve (12) months from the entry of this Judgment, Kyocera shall initiate and
7 cause to be performed a third party hazardous waste environmental audit to be conducted at the
8 Facility. The environmental audit shall include, at a minimum, an analysis of compliance with all
9 California Hazardous Waste Control Law statutory and regulatory provisions cited in the
10 Complaint. Kyocera shall notify the Department of any discovered violations within ten (10)
11 calendar days of the completion of the audit, or more promptly as otherwise required by
12 applicable state or federal law. Within thirty (30) calendar days from the completion of the
13 environmental audit required by this Judgment, Kyocera shall provide the Department with an
14 environmental audit report(s) that describes the findings, analysis, conclusions, and
15 recommendations resulting from the environmental audit conducted on behalf of Kyocera and the
16 measures taken by Kyocera to correct any violations. Kyocera shall promptly correct any
17 violations discovered during the environmental audit as required by federal, state, and local law.

18 **MONETARY SETTLEMENT REQUIREMENTS**

19 17. Civil Penalty

20 Kyocera shall be liable to the Department for the total sum of \$1,400,000.00 as
21 follows: (a) \$1,038,000.00 of the total amount due to the Department shall be designated as civil
22 penalties under the Hazardous Waste Control Law, Health and Safety Code section 25189.2 and
23 shall be paid to the Department in accordance with the instructions contained in paragraph 17.1
24 below; (b) \$162,000.00 of the total amount due to the Department shall be designated as
25 administrative costs and paid to the Department within thirty (30) days from the date of entry of
26 this Judgment in accordance with the instructions contained in paragraph 17.1; and (c)
27 \$200,000.00 of the total amount due shall be designated and used for a Supplemental
28 Environmental Project (SEP) in accordance with paragraph 18 below.

1 17.1. Kyocera shall pay to the Department the total sum of \$1,200,000.00, as
2 specified above in paragraph 17, within thirty (30) days from the entry of this Judgment. In
3 complying with this requirement, Kyocera's check shall identify the name and case number "37
4 2007 0007 4954-CU MC CTL" of this matter, be made payable to the "Department of Toxic
5 Substances Control," and shall be delivered to:

6
7 Department of Toxic Substances Control
8 Accounting Office
9 1001 I Street
10 P.O. Box 806
11 Sacramento, California 95812-0806

12 A photocopy of each check shall be sent to:

13 Charles A. McLaughlin, Chief
14 State Oversight and Enforcement Branch
15 Enforcement and Emergency Response Program
16 Department of Toxic Substances Control
17 8800 Cal Center Drive
18 Sacramento, California 95826-3200

19 and

20 Edward H. Ochoa, Deputy Attorney General
21 Office of the Attorney General
22 110 West "A" Street, 11th Floor
23 P.O. Box 85266
24 San Diego, California 92186-5266

25 18. Supplemental Environmental Project

26 The Department shall give Kyocera a credit in the amount of \$200,000.00 towards the
27 \$1,400,000.00 total amount due to the Department for the following Supplemental Environmental
28 Project: Kyocera shall pay \$200,000.00 to the San Diego River Conservancy to support wireless
river monitoring to be conducted by the San Diego River Research Center. These funds shall be
used for the purposes described in Attachment "2". Within thirty (30) days from entry of this

1 Judgment, Kyocera shall issue a check in the amount of \$200,000.00 made payable to "San Diego
2 River Conservancy." Kyocera's SEP check shall also identify the name and case number "37
3 2007 0007 4954-CU MC CTL" of this matter and the check shall be delivered to:

4
5 Mr. Michael Nelson
6 Executive Officer
7 San Diego River Conservancy
8 1350 Front Street, Suite 3024
9 San Diego, California 92101

10 With a copy of each check sent to:

11 Charles A. McLaughlin, Chief
12 State Oversight and Enforcement Branch
13 Enforcement and Emergency Response Program
14 Department of Toxic Substances Control
15 8800 Cal Center Drive
16 Sacramento, California 95826-3200

17 Edward H. Ochoa, Deputy Attorney General
18 Office of the Attorney General
19 110 West "A" Street, 11th Floor
20 P.O. Box 85266
21 San Diego, California 92186-5266

22 18.1. In the event that Kyocera fails to make the payment as specified in paragraph 18
23 above, Kyocera shall immediately pay to the Department as civil penalties the sum of
24 \$200,000.00 in accordance with the payment instructions in paragraph 17.1 above.

25 **ADDITIONAL STIPULATED PENALTIES**

26 **FOR FAILURE TO COMPLY WITH PAYMENT SCHEDULE**

27 19. If Kyocera fails to meet the payment deadlines for the payments required by
28 paragraphs 17 through 18.1, Kyocera shall be obligated to pay the Department an additional
amount of five hundred dollars (\$500.00) per day, for each day following the payment deadline
during which Kyocera has not paid the amount owed.

OTHER PROVISIONS

20. Retention of Jurisdiction

The Court shall retain jurisdiction of this matter to implement this Judgment.

1 21. Enforcement of Judgment

2 Either party may, by motion or order to show cause before the Superior Court of San
3 Diego County, enforce the terms and conditions contained in this Judgment. Except as otherwise
4 provided in the Stipulation and this Judgment, where a failure to comply with this Judgment
5 constitutes future violations of the Hazardous Waste Control Law, Health and Safety Code
6 section 25100 et seq., or other laws, the Department is not limited to enforcement of this
7 Judgment, but may seek in another action, subject to satisfaction of any procedural requirements,
8 including notice requirements, whatever fines, costs, fees, penalties, or remedies are provided by
9 law for failure to comply with the Hazardous Waste Control Law or other laws. However, the
10 rights of Kyocera to defend itself in law or equity shall not be waived, abrogated or reduced in
11 any fashion, except as provided in this Judgment or the Stipulation, and Kyocera shall be entitled
12 to raise any and all applicable defenses, rights and remedies.

13 22. Modification

14 This Judgment may be modified from time to time by express written agreement of
15 the parties, with the approval of the Court, or in accordance with the law if approved by the
16 parties.

17 23. Imminent and Substantial Endangerment to Public Health or Environment

18 Nothing in this Judgment shall in any way limit the Department's legal authority to
19 direct or order all actions necessary to protect public health or welfare or the environment or to
20 remedy or prevent an actual or threatened release of hazardous waste or constituents from
21 Kyocera's facility that could cause an imminent and substantial endangerment to the public health
22 or to the environment.

23 24. Reservation of Rights

24 As provided in paragraph 8.1 of the Stipulation, Kyocera does not waive any
25 contention that the materials and activities identified in Attachment 1 may be subject to any
26 exemption(s) or exclusion(s) from the definition of, or regulation as, "hazardous wastes" pursuant
27 to Health and Safety Code section 25143.2(c)(2), or any other applicable law. By entering into
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1 the Stipulation and fulfilling its obligation under this Judgment, Kyocera is not admitting that the
2 materials described in Attachment 1 are hazardous wastes.

3 25. Acknowledgment of Partial Satisfaction of Judgment

4 If Kyocera provides the Department with satisfactory evidence of compliance with
5 the non-continuing injunctive obligations contained within paragraphs 4 through 18.1 of this
6 Judgment, Kyocera may, within one hundred fifty (150) days from the effective date of this
7 Judgment, request in writing that the Department execute an acknowledgment of partial
8 satisfaction of judgment, which may be filed with the Court by Kyocera, for those discrete and
9 non-continuing injunctive obligations that have been satisfactorily performed and completed as
10 determined in the sole discretion by the Department and in accordance with the law. However,
11 this does not relieve Kyocera of any continuing obligation to comply with any applicable
12 requirements under the HWCL or California Code of Regulations, title 22, division 4.5,
13 including, without limitation, any conditions required by any hazardous waste permit issued to
14 Kyocera.

15 26. Entry of Judgment

16 The Clerk of the Court is ordered to enter this Judgment forthwith.

17
18 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

19
20 Dated: **DEC 12 2008**

RICHARD E.L. STRAUSS

21 Judge of the Superior Court
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28 SD2005500361

Attachment 1

ATTACHMENT "1" to Final Consent Judgment and Injunction

<u>Column 1</u> <u>Material:</u>	<u>Column 2</u> <u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Column 3</u> <u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Column 4</u> <u>Activity:</u>	<u>Column 5</u> <u>Activity Location:</u>
Used immersion gold, electroless gold, and electroplating baths	<p>(1a1) CN concentration not to exceed 50,000 mg/l</p> <p>(1a2) CN concentration not to exceed 50,000 mg/l</p> <p>(1b) CN concentration not to exceed 50,000 mg/l</p> <p>(2) CN concentration not to exceed 50,000 mg/l</p> <p>(3) CN concentration not to exceed 5,000 mg/l</p>	<p>(1a1) 1,500 gallons/month</p> <p>(1a2) 1,500 gallons (occurs only every 4-5 years, not monthly)</p> <p>(1b) 1,500 gallons/month</p> <p>(2) 1,500 gallons/month</p> <p>(3) 1,500 gallons/month</p> <p>Total 4,500 gallons/mo</p>	<p>(1a1) Baths transferred to 5 gallon containers, cooled, pH adjusted to 12, filtration, transferred to 55 gallon containers and next to reclaim room for gold removal;</p> <p>(1a2) Cooled, pH adjusted to 12, , transferred to 55 gallon containers and next to reclaim room for gold removal;</p> <p>(1b) Electrowinning to remove gold in open tanks (2 Ionnet Units) (incl. addition of "Glyoxal" as part of KAI's electrowinning);</p> <p>(2) Batch CN treatment in open tank (Tank "Sii") after dilution to 5,000 mg/l CN;</p> <p>(3) pH adjustment & CN destruction in continuous waste water treatment system in open tanks (MOD-14 and MOD-15);</p>	<p>(1a1) Manual Plating room</p> <p>(1a2) Auto Plating room</p> <p>(1b) North Reclaim Room</p> <p>(2) Waste Water Treatment Plant</p> <p>(3) Waste Water Treatment Plant</p>

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)((A)

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>	<u>Column 5</u>
<u>Material:</u>	<u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Activity:</u>	<u>Activity Location:</u>
Used parts cleaning baths from electroless and electroplating processes (Rack Stripping Solution)	<p>(1a1) CN concentration not to exceed 50,000 mg/l</p> <p>(1a2) CN concentration not to exceed 50,000 mg/l</p> <p>(1b) CN concentration not to exceed 50,000 mg/l</p> <p>(2) CN concentration not to exceed 50,000 mg/l</p> <p>(3) CN concentration not to exceed 5,000 mg/l</p> <p>(4) CN concentration not to exceed 5,000 mg/l</p>	<p>(1a1) 2,500 gallons/month</p> <p>(1a2) 2,500 gallons/month</p> <p>(1b) 2,500 gallons/month</p> <p>(2) 2,500 gallons/month</p> <p>(3) 2,500 gallons/month</p> <p>(4) 2,500 gallons/month</p> <p>Total is 15,000 gallons/month</p>	<p>(1a1) Baths transferred to 5 gallon containers, cooled, pH adjusted to 12, filtration, transferred to 55 gallon containers and next to reclaim room for use as rack stripping solution component.</p> <p>(1a2) pH adjusted to 12, transferred to 55 gallon containers and next to reclaim room for use as rack stripping solution component.</p> <p>(1b) Used as component of rack-stripping solution in open heated (180° F) rack stripping tank. Other components include CN rinsewaters, sodium hydroxide, and 9025 solution and clean water if needed.</p> <p>(2) Electrowinning in open tanks (2 Ionnet Units) (incl. addition of Glyoxal as part of KAI's electrowinning).</p> <p>(3) Batch CN treatment in open tank (Tank "Sii").</p> <p>(4) pH adjustment & CN destruction in continuous waste water treatment system in open tanks (MOD-14 and MOD-15).</p>	<p>(1a1) Manual Plating room</p> <p>(1a2) Auto Plating room</p> <p>(1b) North Reclaim Room</p> <p>(2) North Reclaim Room</p> <p>(3) Waste Water Treatment Plant</p> <p>(4) Waste Water Treatment Plant</p>
Non-CN rinse waters (wet process rooms)	(1) metals (nickel not to exceed 2,000 mg/l)	(1) 2,400,000 gallons/month	(1) pH adjustment which causes dissolved nickel to fall out of solution.	(1) Waste Water Treatment Plant

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)((A)

<u>Column 1</u> <u>Material:</u>	<u>Column 2</u> <u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Column 3</u> <u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Column 4</u> <u>Activity:</u>	<u>Column 5</u> <u>Activity Location:</u>
Metal hydroxide sludge	(1) metals (nickel not to exceed 600,000 mg/l)	(1) 4,000 pounds/month	(1) Sludge dryer using refrigeration (no addition of absorbent). Please note sludge will be 100% recycled offsite to recover the nickel	(1) Waste Water Treatment Plant
Empty Drums (caustics & acids)	(1) metals concentration in residue not to exceed 15,000 mg/l (2) metals concentration in rinsewater not to exceed 5,000 mg/l	(1) 50 drums/month (2) rinses from 50 drums/month	(1) Drum rinsing at S-4 and S-5 (no crushing). (2) Rinsate to continuous waste water treatment system.	(1) S-4 and S-5 are two treatment units located in the Waste Water Treatment Plant (2) Waste Water Treatment Plant
Empty Drums (cyanides)	(1a) CN concentration not to exceed 5,000 mg/l (1b) CN concentration not to exceed 5,000 mg/l	(1a) 50 drums/month (1b) 50 drums/month	(1a) Drum rinsing (Sump S-12) (1b) Rinsate to continuous waste water treatment system in open tanks (MOD-14 and MOD-15).	(1) North Reclaim Room (1b) Waste Water Treatment Plant
Equipment rinsing (racks/hoses/ or pumps)	(1a) CN concentration not to exceed 5,000 mg/l (1b) CN concentration not to exceed 5,000 mg/l	(1a) 5,000 gallons/month (1b) 5,000 gallons/month	(1a) Equipment rinsing (Sump S-12) (1b) Rinsate to continuous waste water treatment system in open tanks (MOD-14 and MOD-15).	(1a) North Reclaim Room (1b) Waste Water Treatment Plant

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)(A)

<u>Column 1</u> <u>Material:</u>	<u>Column 2</u> <u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Column 3</u> <u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Column 4</u> <u>Activity:</u>	<u>Column 5</u> <u>Activity Location:</u>
Nickel plating baths (electroless bath)	(1) Nickel concentration not to exceed 15,000 mg/l, Pb not to exceed 10 mg/l (2) Nickel concentration not to exceed 15,000 mg/l	(1) 1,500 gallons/month (2) 1,500 gallons/month Total is 3,000 gallons/mo	(1) Batch treatment by addition of sodium hydroxide in open tank (Tank "Mod-12"). (2) Waste water metered into non-CN rinsewater stream for polishing in continuous waste water treatment system.	(1) Waste Water Treatment Plant (2) Waste Water Treatment Plant
Corrosive baths (e.g., cleaners, acids, tin-lead & copper plating, or nickel plating)	(1) metals (not to exceed 2,000 mg/l) pH<2 or >12.5	(1) 3,500 gallons/month	(1) Metered to the continuous waste water treatment system.	(1) Waste Water Treatment Plant

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)(A)

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>	<u>Column 5</u>
<u>Material:</u>	<u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Activity:</u>	<u>Activity Location:</u>
CN dragout from auto gold plating line (from tank SPA)	(1) CN concentration not to exceed 5,000 mg/l (2) CN concentration not to exceed 5,000 mg/l (3) CN concentration not to exceed 5,000 mg/l (4) CN concentration not to exceed 5,000 mg/l	(1) 5,000 gallons/month (2) 5,000 gallons/month (3) 5,000 gallons/month (4) 5,000 gallons/month Total amount not to exceed 20,000 gallons/mo	(1) Used as component of rack-stripping solution in open heated (180° F) rack stripping tank. (2) Electrowinning in open tanks (2 Ionnet Units) (incl. addition of Glyoxal as part of KAI's electrowinning). (3) Batch treatment in open tank (Tank "Sii"). (4) pH adjustment & CN destruction in continuous waste water treatment system in open tanks (MOD-14 and MOD-15)..	(1) North Reclaim Room (2) North Reclaim Room (3) Waste Water Treatment Plant (4) Waste Water Treatment Plant

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)(A)

<u>Column 1</u> <u>Material:</u>	<u>Column 2</u> <u>Hazardous Characteristics & Concentrations for each activity as identified Column 4:</u>	<u>Column 3</u> <u>Volume or amount per month for each activity as identified Column 4:</u>	<u>Column 4</u> <u>Activity:</u>	<u>Column 5</u> <u>Activity Location:</u>
CN rinse water (Auto Gold Plating Lines)	(1) CN concentration not to exceed 5,000 mg/l (2) CN concentration not to exceed 5,000 mg/l (3) CN concentration not to exceed 5,000 mg/l (4) CN concentration not to exceed 5,000 mg/l	(1) 10,000 gallons/month (2) 520,000 gallons/month (3) 520,000 gallons/month (4) 520,000 gallons/month Total is 530,000 gallons/month	(1) Gold Bug Unit (addition of sodium hypochlorite); and/or (2) Ion Exchange Units. (3) Electrolytic recovery unit (4) pH adjustment and & CN destruction in continuous waste water treatment system in open tanks (MOD-14 and MOD-15).	(1) Auto Gold Plating Room (2) Auto Gold Plating Room (3) Tank E -outside the Auto Gold Plating room (same area of the tanks SPA, SPB, and SPD) (4) Waste Water Treatment Plant
Ferric cyanide dragout	(1) CN concentration not to exceed 5,000 mg/l (2) CN concentration not to exceed 5,000 mg/l	(1) 5000 gallons/month (2) 5000 gallons/month Total is 10,000 gallons/month	(1) Batch treatment in open tank (Tank "Sii") using bleach and caustic soda. (2) pH adjustment & CN destruction in open tanks in continuous waste water treatment system in open tanks (MOD-14 and MOD-15).	(1) Waste Water Treatment Plant (2) Waste Water Treatment Plant

Note: For all Cyanide Treatments under PBR (CCR, T22, § 67450.11(d):

- Comply with Best Management Requirements
- Employee training (Initial and annual training to employees, who handle cyanide process solutions, cyanide rinse waters, or manage cyanide waste)
- Evaluate cyanide alternatives every 4 years
- Written approval from the agency operating the POTW receiving the facility's discharges required by section 67450.3, §§ (a)(7)(A) or (c)(5)(A)

Attachment 2

ATTACHMENT "2" TO FINAL CONSENT JUDGMENT AND INJUNCTION

SUPPLEMENTAL ENVIRONMENTAL PROJECT Case No. 37-2007-00074954-CU-MC-CTL

The SEP funds in the amount of \$200,000 shall be used for the purchase and installation of four wireless environmental sensors at a cost of \$41,887.84 per unit and associated equipment (see attached itemized cost per unit) for the San Diego River Watershed Data Collection and Restoration Program ("Program") to assess, monitor and address the long-term impacts of pollutants to public health and water quality in the San Diego River Watershed. The remainder of funds shall be used for ongoing maintenance of wireless environmental sensors.

SEP Description:

At the first meeting of its governing Board following receipt of the designated funds, the San Diego River Conservancy shall approve a grant of the designated funds for Program purposes to San Diego State University (SDSU) for the purchase, installation, and maintenance of the sensors and equipment. SDSU shall use the funds for establishing a data collection and dissemination system that will inform environmental protection regulators and water resource managers of current and changing environmental conditions, allowing them to base decisions on real-time data and on sound science. SDSU will also use data generated from the project to enhance classroom instruction in environmental curricula as well as to assist community organizations with resource management decisions in an urban environment.

As part of the terms of the grant, SDSU will be responsible for preparing an Annual Report that will be made available to environmental regulators, including the Department of Toxic Substances Control, and watershed managers, summarizing findings related to the project and associated data collection activities. If, during the course of monitoring, data suggest that a release or other source of contaminants is impacting the watershed, SDSU shall either (1) investigate to determine the cause, and/or (2) immediately report this finding to environmental regulators and watershed managers.

San Diego State University, the San Diego River Conservancy and the San Diego River Park Foundation partnered to create the San Diego River Research Center, which is charged with the collection, understanding, and sharing of environmental information within the San Diego River Watershed. The Research Center also works to improve the waterway's natural function in areas altered by heavy development and historical industrial sewage spills and discharges. When completed the project will consist of 23 to 25 sensors and a wireless network for transmitting monitoring data about the watershed to researchers. As part of the sensor network, basic water chemistry data, including water temperature, pH, stream flow, dissolved oxygen, turbidity, and conductivity will be collected via an online database service and georeferenced using a Geographic Information System (GIS).

SUPPLEMENTAL ENVIRONMENTAL PROJECT
Case No. 37-2007-00074954-CU-MC-CTL

Additional Terms and Conditions:

The San Diego River Conservancy or its designated grantee shall own the equipment and shall be solely responsible for all matters associated with the Program, including without limitation, project fees, expenses, and costs related to the acquisition, installation, operation, and ongoing maintenance and repair of the equipment. The San Diego River Conservancy or its designated grantee will also be responsible for any reporting obligations as detailed above.

Completion Date:

Within thirty (30) days from the date of entry of the parties' final Judgment, Kyocera shall provide the San Diego River Conservancy with the designated funds on the condition they be spent only for the specified purposes identified above.

San Diego River Research Center Project Equipment List, 2008

Cost estimate for one wireless sensor station

Communications

Item	Qty	Unit	Description	Unit Cost	Total Cost
1	3 ea		Trango Link 45 Ethernet Radios	2200.00	6600.00
2	3 ea		Surge suppression	75.00	225.00
3	2 ea		DC - DC converter	125.00	250.00
4	1 ea		Network switch, 8 port	50.00	50.00
5	2 ea		NEMA enclosure	335.00	670.00
6	1 ea		Steel Job box	249.00	249.00
7	3 ea		PoE	50.00	150.00
8	1 ea		Galvanized steel pipe, 4" x 10;	480.00	480.00
9	1 ea		Roof mount tripod.	150.00	150.00
Tax (0.0775%)					683.86
					\$9,507.86

Sensors

Item	Qty	Unit	Description	Unit Cost	Total Cost
1	1 ea		YSI 6600V2 water quality probe	10100.00	10100.00
2	1 ea		Serial to Ethernet converter	85.00	85.00
3	1 ea		Network camera w/ lens, mount and PoE	1600.00	1600.00
4	1 ea		Small hardened block house with pole mount	500.00	500.00
5	1 ea		Network switch, 8 port	50.00	50.00
Tax (0.0775%)					955.96
					\$13,290.96

Relay Power

Item	Qty	Unit	Description	Unit Cost	Total Cost
1	3 ea		PV module 120 watt	550.00	1650.00
2	1 ea		Battery enclosure	650.00	650.00
3	1 ea		Pole mount bracket	75.00	75.00
4	6 ea		12VDC battery	195.00	1170.00
5	1 ea		Charge regulator	295.00	295.00
6	1 ea		Cables, wire, surge protection, breaker panel	375.00	375.00
7	1 ea		Factory pre-assembly	350.00	350.00
Tax (0.0775%)					353.79
					\$4,918.79

Sensor Station Power

Item	Qty	Unit	Description	Unit Cost	Total Cost
1	1 ea		PV module 120 watt	550.00	550.00
2	1 ea		Pole mount bracket	35.00	35.00
3	2 ea		12VDC battery	195.00	390.00
4	1 ea		Charge regulator	165.00	165.00
5	1 ea		Cables, wire, surge protection, breaker panel	250.00	250.00
Tax (0.0775%)					107.73
					\$1,497.73

Installation Materials and Consumables

Item	Qty	Unit	Description	Unit Cost	Total Cost
1	1 ea		Chain link fence	425.00	425.00
2	1 ea		EMT and steel pipe	600.00	600.00
3	10 ea		60# concrete	2.50	25.00
4	1 ea		Wire, cables, conduit, misc. hardware	1000.00	1000.00
Tax (0.0775%)					158.88
					\$2,208.88

Installation Labor

\$5,000.00

Total Estimated Cost **\$36,424.21**

Indirect Expenses 15% \$5,463.63

GRAND TOTAL **\$41,887.84**

*Annual Maintenance and Report (for one sensor)

\$1,000 / year

DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **People of the State of California v. Kyocera America, Inc., et al.**

No.: **37-2007-00074954-CU-MC-CTL**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266.

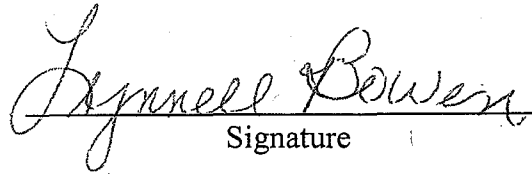
On **December 5, 2008**, I served the attached **(PROPOSED) FINAL CONSENT JUDGMENT AND INJUNCTION** by placing a true copy thereof enclosed in a sealed envelope with the **Fedex**, addressed as follows:

Wactor & Wick, LLP
Jon Wactor, Esq.
William Wick, Esq.
180 Grand Avenue, Suite 950
Oakland, CA 94612
Attorney for Defendant Kyocera America, Inc.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **December 5, 2008**, at San Diego, California.

Lynnell Bowen

Declarant


Signature